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William Gittere and Calvin Johnson*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT MCGUIRE,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendant.

Case No. 3:23-cv-00165-ART-CLB

**ORDER GRANTING DEFENDANTS'
MOTION FOR EXTENSION OF TIME
TO RESPOND TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT
[SECOND REQUEST]**

Defendants, William Gittere and Calvin Johnson, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Victoria C. Corey, Deputy Attorney General, hereby move this Court for an extension of time to respond to Plaintiff's motion for summary judgment and related filings [ECF Nos. 31-34]. This is Defendants' second request for an extension of the subject deadline.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL ANALYSIS

This is a *pro se* prisoner 42 U.S.C. § 1983 civil rights claim brought by offender, Robert McGuire (McGuire). This Court entered a scheduling order with a discovery deadline of August 31, 2024 and a dispositive motion deadline of September 30, 2024. ECF No. 20.

1 McGuire filed his original motion for summary judgment on March 19, 2024, just
2 fifteen days after the opening of discovery. ECF No. 24. This motion was denied as
3 premature the same day. ECF No. 25.

4 On August 7, 2024, McGuire re-filed his motion for summary judgment, along with
5 three (3) supplements. ECF Nos. 31-34. On August 26, 2024, this Court granted
6 Defendants' first request for extension to respond to McGuire's motions, extending the
7 deadline to September 30, 2024. ECF Nos. 35-36.

8 Defendants now request a second, and last, extension of time to respond to
9 McGuire's motions, as undersigned counsel has to undergo another surgery the week of
10 September 23, 2024, and will be out for roughly a week and a half on medical leave.

11 **II. ARGUMENT**

12 Federal Rule of Civil Procedure 16(b) allows parties to request extensions of
13 deadlines set in the Court's scheduling order for good cause. To demonstrate good cause,
14 the parties must show "that, even in the exercise of due diligence, [the parties were] unable
15 to meet the timetable set forth in the order." *Cruz v. City of Anaheim*,
16 CV1003997MMMJEMX, 2011 WL 13214312, at *2 (C.D. Cal. Dec. 19, 2011) (citing
17 *Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002); *Johnson*
18 *v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)). Prejudice to the opposing
19 party is a factor in determining good cause, though lack of prejudice is "not a prerequisite."
20 *Id.*

21 Defendants request additional time to file their response to McGuire's motions.
22 Defendants have acted diligently in conducting discovery, which is now complete. Good
23 cause exists for an extension because undersigned counsel will be out of the office starting
24 September 23, 2024, until roughly October 2, 2024, undergoing another surgery. *See, e.g.*,
25 *Velazquez v. Greyhound Lines, Inc.*, No. 2:19-CV-00493, 2020 WL 13599709, at *18 (D.
26 Utah Aug. 18, 2020) (attorney illness provided good cause to extend the scheduling order
27 deadlines).

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1 **III. CONCLUSION**

2 Defendants respectfully request this Court extend the deadline for their response
3 to McGuire's motions. Defendants assert the requisite good cause is present to warrant an
4 extension of time. As such, the Defendants request additional time, up until **October 30,**
5 **2024**, to file their response to McGuire's motions.

6 DATED this 20th day of September 2024.

7 AARON D. FORD
8 Attorney General

9 By: /s/ Victoria C. Corey
10 VICTORIA C. COREY, Bar No. 16364
11 Deputy Attorney General
12 *Attorneys for Defendants*

13 **IT IS SO ORDERED.**

14 **DATED:** September 20, 2024

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17 UNITED STATES MAGISTRATE JUDGE
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